

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

James Edward Clark,)	
)	
Plaintiff,)	C/A No.: 1:12-877-GRA-SVH
)	
v.)	ORDER
)	(Written Opinion)
Detention Officer Lieutenant Lapetit;)	
Detention Officer Sergeant Callahan;)	
Detention Officer H. Smith; John Doe,)	
Detention Officer,)	
)	
Defendants.)	
)	

This matter comes before the Court for review of United States Magistrate Judge Shiva V. Hodges' Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(d) of the District of South Carolina, and filed on January 3, 2013. Magistrate Judge Hodges recommends that this Court dismiss Plaintiff James Edward Clark's ("Plaintiff") case with prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure for failure to prosecute. ECF No. 35. Neither party objected to the magistrate's Report and Recommendation. For the reasons stated herein, the Court adopts the magistrate's Report and Recommendation in its entirety and dismisses Plaintiff's case with prejudice.

Standard of Review

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow

for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982). A court may not construct the plaintiff's legal arguments for him, *Small v. Endicott*, 998 F.2d 411 (7th Cir.1993), nor is a district court required to recognize "obscure or extravagant claims defying the most concerted efforts to unravel them." *Beaudett v. City of Hampton*, 775 F.2d 1274, 1277 (4th Cir.1985), *cert. denied*, 475 U.S. 1088 (1986).

Background

Plaintiff, a state inmate currently incarcerated in the Alvin S. Glenn Detention Center in Columbia, South Carolina, brought this claim pursuant to 28 U.S.C. § 1983.

On November 1, 2012, Defendants moved for summary judgment. ECF No. 30. The magistrate entered an order on November 2, 2012, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising him of the importance of Defendants' motion and of the need for him to file an adequate response. ECF No. 31. After Plaintiff did not respond, the magistrate issued another order on December 11, 2012 that directed the Plaintiff to advise the court whether he wished to continue with the case. ECF No. 33. Furthermore, the order gave Plaintiff clear notice "**that if he fails to respond, this action will be recommended for dismissal with prejudice for failure to prosecute.**" *Id.* (emphasis added). Plaintiff did not respond to the order, and the time for response lapsed on December 28, 2012.

Discussion

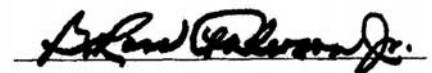
The magistrate judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261 , 270–71

(1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* "The failure to file objections to the report and recommendation waives any further right to appeal." *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987); see *Carter v. Pritchard*, 34 F. App'x 108, 108 (4th Cir. 2002) (per curiam). Furthermore, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). In this case, objections were due by January 22, 2013. Neither the defendant nor the plaintiff filed any objections to the magistrate judge's Report and Recommendation.

After a review of the record, this Court finds that the magistrate judge's Report and Recommendation accurately summarizes the case and the applicable law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that this case is DISMISSED WITH PREJUDICE pursuant to Rule 41 of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.



G. Ross Anderson, Jr.
Senior United States District Judge

January 24, 2013
Anderson, South Carolina